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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/689,721      08/12/96      PERRY

A

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MM12/1227

EXAMINER

LUEBKE, R

ART UNIT

PAPER NUMBER

2832

DATE MAILED:

12/27/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
08/689,721

Applicant(s)  
Perry

Examiner  
Renee S. Luebke

Group Art Unit  
2832



☒ Responsive to communication(s) filed on Dec 14, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 11-13 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 11-13 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. claim 13 is the same as claim 11 and will not be allowed in view thereof.

2. Claims 11-13 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for pulling the recorder apart and then placing the ring thereon, does not reasonably provide enablement for performing this operation *after* the strap has been placed on the neck of the user. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to perform the method of the invention commensurate in scope with this claim.

Applicant argues that claim 11 is supported by a statement that the "strap is worn around the neck" being located earlier in the specification than the summary of how it is assembled. However, this statement, on line 5, is not part of the later discussion of the method of assembly and clearly does not relate to it in this manner. In particular, lines 3-5 discuss one objective of the invention, the provision of a device for a particular purpose. Then lines 6-8 discuss another objective. Finally in lines 9-22 (to which applicant also refers) is a summary of a portion of the method. This method does not suggest that the ring is placed on the recorder after the strap is placed on the user's neck.

Applicant has not (as required) separately indicated the patentability of new claims 12 and 13. However, as they are essentially the same as claim 11, the discussion above applies.

3. In the future, it is recommended that applicant use a form or separate sheet to change the correspondence address.

4. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. **It is suggested that responses to this final action be faxed to:**

(703) 308-7722, 308-7724 or 308-7382

This facsimile transmission service for formal amendments is provided as part of Technology Center 2800's After Final program to improve communication with our customers. Use of this program reduces processing time, will result in more timely responses by the Office and should result in fewer requests for extensions of time. Please refrain from sending a confirmation copy, as noted in 37 CFR 1.6(d) and 1.8(b).

For formal communications, please mark "EXPEDITED PROCEDURE"

For informal or draft communications please clearly label "PROPOSED" or "DRAFT"

**Alternatively, responses may be mailed to:**

Box AF

Assistant Commissioner for Patents

Washington, DC 20231

**Hand-delivered responses should be brought to:**

Crystal Plaza 4, Fourth Floor (Receptionist)

2201 South Clark Place, Arlington, Virginia.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (703) 308-1511. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Gellner, can be reached at (703) 308-1721.



Renee S. Luebke

Primary Patent Examiner

December 22, 1999